

Serial No. 10/602,338

REMARKS

1. Claims 1-17 remain pending in this application.
2. Claims 1-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (WO98/56312) in view of Jamiolkowski et al. (4,889,19). Applicant respectfully traverses this rejection.

Applicant is claiming stents comprising a helical structure having a plurality of adjacent coils, where the structure has spaces between the adjacent coils. Neither Wang nor Jamiolkowski, taken alone or together, teaches or suggests providing spaces between the adjacent coils. The Examiner does not dispute this fact. Instead, the Examiner has stated that "...it would have been obvious matter of design choice to modify the coil stent of Wang et al. in view of Jamiolkowski et al. by having spaces between adjacent coils since applicant has not disclosed that having spaces between adjacent coils solves any stated problem or is for any particular purpose and it appears that the stent having spaces between adjacent coils would support a body lumen equally well with the stent having no space between adjacent coils.". Simply put, the Examiner has taken a leap of faith without providing any basis whatsoever for her opinion. If the Examiner insists on stating that providing spacing between coils is nothing more than a matter of design choice, and that further such a stent would perform "equally well" to one not having spaces between coils, then Applicant requests the Examiner to submit an affidavit setting forth these facts based on her personal knowledge to support this rejection under 37 C.F.R. 1.104(d)(2). Otherwise, the Examiner must provide some authority, such as a cited prior art reference, which teaches or suggests the spacing of the adjacent coils for Applicant's claimed stent. If an affidavit or presentation of authority is not forthcoming, then the rejection of claims 1-17 under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (WO98/56312) in view of Jamiolkowski et al. (4,889,19) must be withdrawn.

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3. Since all formal requirements appear to have been met, Applicant respectfully requests a Notice of Allowance at the Examiner's earliest convenience.

Respectfully submitted,

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August 17, 2005